IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11120 of 2004

Between:

T. Subba Rao S/o. Ramayya
R/o. Purushotapatnam, Chilakaluripet (Po) Guntur District.

..... PETITIONER

AND

1 The Govt of A.:P., rep. by its Secretary, Agriculture & Cooperation (Agri-I) Dept., Secretariat, Building Hyd.
2 The Commissioner and director of Agriculture, Govt of A.P., L.B.Stadium, Hyd.
3 the Joint Director of Agriculture Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the GO. Rt. No. 148, Agriculture and Cooperation (Agri.I) Dept., Dt. 15.02.2001 as confirmed by the A.P.A.T. Hyderabad in O.A.No. 6390/2001, Dt.19.02.2004 and consequential Proceedings of third respondent in Rc.No.Estt.I/4365/80, Dt. 03.05.2004 as illegal, contrary to law, against principles of natural justice and direct the respondents to pay full pension, gratuity and other retrial benefits to the petitioner in addition to treating the suspension period as duty .

Counsel for the Petitioner: MR.T.AMARNATH GOUD

Counsel for the Respondent Nos.1 to 3: GP FOR AGRICULTURE

The Court made the following :

THE HON'BLE SRI JUSTICE J. CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 11120 of 2004

ORDER: (Per the Hon'ble Sri Justice Goda Raghuram)

The unsuccessful applicant in O.A.No.6390 of 2001 on the file of Andhra Pradesh Administrative Tribunal, Hyderabad, is before this Court aggrieved by the order of the Tribunal, dated 19.02.2004 rejecting the O.A.

The petitioner- a retired agriculture officer was imposed the penalty of 100% cut in pension, besides, recovery of an amount of Rs.5,47,402.19 Ps. by the order of the State Government in GO.Rt.No. 148, dated 15.02.2001, challenging which the O.A. was filed.

While working as an Agriculture Officer, the petitioner was placed under suspension on 03.07.1980. An Enquiry Officer was appointed on allegations that he sold fertilizers based on earlier rates though he was aware that the rates had been increased subsequently. The Enquiry Officer submitted his report on 22.04.1981. Pursuant to which a show cause notice was issued on 08.08.1981 proposing the penalty of dismissal from service. Another proceeding was initiated against the petitioner in the year 1983 for recovery of Rs.4,38,805.04 Ps., on allegations of having caused loss to the Government and having committed grave irregularities by way of misappropriation of stock and cash, apart from other lapses. In respect of this disciplinary case, a show cause notice dated 31.07.1993 was issued, and another memo dated 17.09.1993 was issued stating that a Criminal Case in C.C.No.364 of 1990 was filed against him before the Court of III Additional Munsif Magistrate, Ongole.

In the Criminal Case by the judgment dated 27.08.1993, the petitioner was convicted and sentenced to suffer rigorous imprisonment for a period of one year, besides, payment of fine of Rs.5,000/-. After the conviction, a notice was issued to the petitioner asking him to show cause why he should not be dismissed from service, besides, initiating recovery of an amount of Rs.5,47,402.19 Ps. The petitioner submitted his reply to the show cause notice and during the processing of this proceeding, on 30.06.1994 on superannuation he was permitted to retire from service without prejudice to the final decision on the three show cause notices adverted to supra.

Later, by a memo dated 26.06.1998, a show cause notice was issued to the petitioner, purportedly under Rule 9 (1) of the Andhra Pradesh Revised Pension Rules, 1980, proposing 100% cut in pension and gratuity, besides, recovery of Rs.5,47,402.19 Ps. The petitioner submitted his explanation on 23.11.1998. The State Government by the order impugned before the A.P.A.T. dated 15.02.2001 in GO.Rt.No. 148, imposed the penalty on the petitioner as proposed.

In rejecting the application of the petitioner, the Tribunal correctly came to the conclusion that as the petitioner was convicted in the Criminal proceedings, under Rule, 9 (1) of the A.P. Revised Pension Rules, 1980, proceedings could be initiated against him for imposing a cut in the pension wholly or in part or for recovery of the amount of loss caused to the State on account of his misfeasance while in office. Responding to the other contention of the petitioner that the punishment of 100% cut in pension and in death-cum-retirement gratuity is disproportionate to the charges alleged against him, the Tribunal held that in view of the fact that the petitioner was convicted of the grave charge of misappropriation of public funds, the penalty imposed by the order of the Government cannot be said to be disproportionate or arbitrary. The judgment of the Tribunal is impeccable. We find no reasons to interfere.

The writ petition is dismissed. No order as to costs.

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J.CHELAMESWAR, J.

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GODA RAGHURAM, J.

Dated: 30th August, 2004

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Copy to:

1 The Secretary, Agriculture & Cooperation (Agri-I) Dept., Govt of A.:P. Secretariat, Building Hyderabad.
2 The Commissioner and director of Agriculture, Govt of A.P., Opp. L.B.Stadium, Hyderabad.
3 The Joint Director of Agriculture Ongole, Prakasam District.

4 . Two C.Cs to G.P. for Agriculture, High Court buildings, High Court of A.P., Hyderabad (O.U.T)

5. Two C.D copies.